

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EDDIE J. REED,

Plaintiff,

v.

Case Number: 06-10946
HON. PATRICK J. DUGGAN

THE HONORABLE MAGGIE W.
DRAKE,

Defendant.

/

OPINION AND ORDER

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on April 19, 2006.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

Plaintiff Eddie J. Reed, a state inmate currently incarcerated at the Bellamy Creek Correctional Facility in Ionia, Michigan, has filed a *pro se* civil rights complaint pursuant to 42 U.S.C. §1983. Plaintiff is proceeding without prepayment of the filing fee in this action under 28 U.S.C. § 1915(a)(1). After careful consideration, the Court dismisses the complaint, pursuant to 28 U.S.C. § 1915(e)(2), because Plaintiff fails to state a claim upon which relief may be granted.

Under the Prison Litigation Reform Act, Pub. L. No. 104-134, 110 Stat. 1321 (1996) (“PLRA”), the Court is required to *sua sponte* dismiss an *in forma pauperis*

complaint before service on a defendant if it determines that the action is frivolous or malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B); *see also* 42 U.S.C. § 1997e(c).

In this lawsuit, Plaintiff complains about the conduct of the Honorable Maggie Drake, who presided over his criminal trial in the Circuit Court for the County of Wayne, State of Michigan. Following that trial, Plaintiff was convicted of car jacking and armed robbery. Plaintiff objects to various rulings Judge Drake rendered during the course of the criminal proceedings against him, claims that his convictions are invalid based upon the judge's conduct, and seeks immediate release. He also seeks ten million dollars in damages.

A judgment in favor of Plaintiff on the claims presented in his complaint would necessarily imply the invalidity of his continued confinement. In *Heck v. Humphrey*, 512 U.S. 477, 486-87, 114 S. Ct. 2364, 2371-72 (1994), the Supreme Court held such claims to be improper under 42 U.S.C. § 1983:

[W]hen a state prisoner seeks damages in a § 1983 suit, the district court must consider whether a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence; if it would, the complaint must be dismissed unless plaintiff can demonstrate that the conviction or sentence has already been invalidated.

Id. at 487, 114 S. Ct. at 2372. A petition for a writ of habeas corpus provides the appropriate vehicle for challenging the fact or duration of a prisoner's confinement.

Preiser v. Rodriguez, 411 U.S. 475, 486-87, 93 S. Ct. 1827, 1834-35 (1973). Thus if

Plaintiff wishes to assert a claim that his convictions are invalid, he must do so by filing a habeas corpus petition under 28 U.S.C. § 2254. The Court declines to construe Plaintiff's complaint as a habeas corpus petition because he does not allege that his claims are exhausted. *Id.* at 489-90, 93 S. Ct. at 1836. The Court also declines to construe Plaintiff's complaint as a habeas corpus petition because Plaintiff may want to assert additional or different claims for relief in a habeas corpus petition than those contained in the pending complaint.

Moreover, with respect to Petitioner's claim for ten million dollars in damages, judicial officers enjoy absolute judicial immunity from liability for monetary damages for conduct within the scope of a court's jurisdiction. *Mireles v. Waco*, 502 U.S. 9, 112 S. Ct. 286 (1991); *Stump v. Sparkman*, 435 U.S. 349, 98 S. Ct. 1099 (1978).

For the foregoing reasons,

IT IS ORDERED, that Plaintiff's complaint is **DISMISSED WITH PREJUDICE** pursuant to 28 U.S.C. § 1915(e)(2), for failure to state a claim upon which relief may be granted.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:
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